

NAVY VICTIMS' LEGAL COUNSEL PROGRAM ASSESSMENT GUIDE

Navy Victims' Legal Counsel (VLC) should be prepared to explain to the inspector how they arrived at their self-assessment answers. The inspector will evaluate each of the question areas. VLC may be asked to provide objective evidence and/or documentation to support their answers, to include training records, office space inspections, computer resources, etc. The inspection is a process overview and will not include review of any attorney-client privileged materials. The Article 6 Report will reflect where the inspector agrees with the self-assessment without further comment, unless comment is warranted to highlight impressive results or deficiencies. For every question where the inspector disagrees with the self-assessment, the inspector will provide amplifying comments.

I. Personnel

A. Judge Advocates

1. Certification

a. Did the VLC complete VLC or Special Victims' Counsel (SVC) certification training prior to practicing as a VLC?

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

2. Training

a. VLC received training specific to working with child clients.

Self-Assessment:

Yes _____ No _____

Comments:

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Inspector Assessment:

Yes _____ No _____

Comments:

b. VLC are required to participate in victim-focused training throughout the year (this includes Defense Connect Online training). Have you attended or received victim-focused training in the last year?

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

c. Navy mandated training such as General Military Training is tracked by the Region Legal Service Office (RLSO) Professional Development Officer (PDO). Are you notified of these trainings?

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

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3. VLC are familiar with signs of compassion/empathy fatigue and the resources available to assist with compassion/empathy fatigue, including addressing the issue with the chain of command.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

B. Support Staff/Yeomen

1. Organization

a. When practicable, VLC program support staff draft case correspondence in accordance with JAGINST 5810.3 and SECNAV M-5216.5 to include, but not limited to:

- i. Detailing letters
- ii. Scope of Representation
- iii. Notices of Representation
- iv. Notices of Appearance

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

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b. Support staff, where available, follow proper procedures for client intake, to include:

i. Checking client eligibility in accordance with COMNAVLEGSVCCOMNOTE 5810 dated 3 December 2014;

ii. Conducting a conflict check to ensure the attorney to be assigned does not represent another client in a related matter or the accused when they are the victim in another matter;

iii. Safeguarding client confidentiality by not taking personal information in public areas and guarding against third party access to forms containing personally identifiable information (PII) or case-specific information.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

c. Did the yeoman complete Personnel Qualification Standards that encompass basic administrative functions, victim advocate training, and other necessary requirements no later than six months after reporting to a VLC office.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

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2. Ethics

a. Support personnel refrain from the unauthorized practice of law in accordance with JAGINST 5803.1D by not meeting or consulting with clients separately or answering substantive legal questions, and identify themselves to clients as support staff.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

b. In accordance with JAGINST 5810.3.1D, support personnel refrain from speaking about client information, appointments with VLC, or confidential matters covered within the attorney client relationship:

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

c. Support personnel are trained on ethical requirements and procedures to properly safeguard PII and case sensitive information in accordance with governing regulation JAG/CNLSCINST 5211.11. Specifically, support personnel ensure:

i. No sensitive or personal information is taken or discussed in a public space;

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ii. No privileged or personal information is disclosed or discussed with any third party without the express approval of the attorney involved;

iii. Documents created or maintained by support staff are labeled with PII cover sheets as applicable, safeguarded to ensure no third party access, and disposed of properly.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

II. Professional Responsibility and Training

A. Confidentiality

1. VLC take appropriate measures to ensure client confidentiality is protected, and confidential communications and client appointments/visits are not disclosed without the express consent of the client.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

2. VLC office space provides a confidential, private location to meet with clients. Should meetings occur outside the VLC office space, appropriate steps are taken to ensure the client's privacy and confidentiality are safeguarded.

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Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

3. In cases where services are provided remotely, attorneys and support staff determine eligibility before engaging in representation and safeguard the confidentiality of remote communications.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

B. Conflicts of Interest

1. VLC and/or support personnel maintain a client log (e.g., spreadsheet) to assist in identifying when the representation of one client will be directly adverse to another client (e.g., multiple victims of the same perpetrator, perpetrator presenting as a victim, or family member victims of a minor client).

Self-Assessment:

Yes _____ No _____

Comments:

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Inspector Assessment:

Yes _____ No _____

Comments:

2. In cases where there was a conflict, VLC referred the victim to another VLC or Special Victims' Counsel (SVC) or, in appropriate instances, sought a waiver from the client.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

3. When using an interpreter to communicate with a client an affidavit is filed and recorded, and the interpreter is not conflicted from participation in the case.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

C. Attorney Client Relationships

1. VLC respect ongoing attorney-client relationships and refrain from giving advice to clients of another attorney. VLC understand the limited circumstances where advice may be provided on an emergency basis.

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Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

D. Case Files

1. The VLC office properly maintains official records, to include electronic or paper intake sheets and case files per JAGINST 5810.3, ensuring:

a. Intake forms with protected customer information and case files are secured in locked drawers not accessible to the public, other persons within the VLC office, or VLC Program leadership except as permitted by the Privacy Act or for program productivity reports and quality evaluation by a supervisor.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

b. Hard copy client intake forms and client case files are retained for two years after completion of services and disposed of in accordance with SECNAV M-5210.1, unless matters addressed in a particular intake form remain in dispute, or where further activity is foreseeable, in which case the hardcopy may be retained indefinitely by the office.

Self-Assessment:

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Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

c. The VLC office returns all original documents to the client if requested, keeping only copies in the office file, with the records marked as such.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

III. Organization

A. SOP/NLSC manual compliance

1. Instructions

a. VLC and support personnel attached to this office know of and are familiar with the VLC Program's governing manual, JAGINST 5810.3.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

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Yes _____ No _____

Comments:

b. The VLC Program shares resources through a SharePoint site that is constantly updated and all VLC have access to.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

c. VLC attorneys and support staff use the VLC program's case tracking system in accordance with established business rules per JAGINST 5810.3, and properly record all VLC services.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

d. VLC and support staff only use government equipment and authorized software unless permission has been received from VLC program leadership to use other media, and proper action has been taken to protect client information.

Self-Assessment:

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Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

B. Office Administration

1. VLC are aware that for Command Managed Equal Opportunity (CMEO) training requirements and to make an informal or formal complaint, they should use the local RLSO and the RLSO CMEO Officer.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

2. Pursuant to COMNAVLEGSVCCOMNOTE 1300.1, VLC are aware that the Chief of Staff (COS) for the Navy Victims' Legal Counsel Program is the reporting senior on all program enlisted evaluations, fitness reports, and performance appraisals and that each member shall provide input for inclusion in such evaluations, reports and appraisals.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

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Yes _____ No _____

Comments:

3. VLC are aware that travel requests must be submitted using Joint Consolidated Administrative Business (JCAB) Travel and VLC Travel Justification forms, and that such requests are forwarded via the Deputy Chief of Staff (DCOS) to the COS for approval.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

4. VLC and support staff are aware they must forward requests for supplies via the DCOS to JCAB, utilizing the appropriate JCAB form.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

C. Assignment decisions

1. Eligibility

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a. VLC and program support personnel ensure legal services are only provided to people eligible for assistance in accordance with 10 U.S.C. §1044a, 10 U.S.C. §1044e, JAGINST 5810.3, and COMNAVLEGSVCCOMNOTE 5810.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

b. In cases where a victim belongs to another branch of service, VLC requested a waiver from COS VLC before commencing representation.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

c. In cases where VLC believe it is in the best interest of the Navy or the client to provide legal support to a victim not meeting eligibility requirements, VLC program staff are aware of the correct process to request a waiver of eligibility.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

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Yes _____ No _____

Comments:

d. VLC and support staff refer victims of non-sexual offenses to the Legal Assistance Department at the nearest RLSO or other victim service providers as appropriate.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

D. Transferring Clients

1. If a client requests a new VLC be assigned (for whatever reason), there are procedures in place to ensure no conflict of interest or other challenge exists in representing the victim, and a smooth transition of information between VLC will occur.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

2. In cases where a victim has temporarily transferred to another geographic location (e.g. deployment or TAD), there are procedures in place so a victim may request a local VLC

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provide limited representation on matters requiring immediate legal support, and for the VLC at the temporary site to memorialize the limited representation.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

3. When a victim executes a permanent transfer to a new geographic location, the victim's VLC notifies the victim that he or she may retain the current VLC or request a new VLC at the follow on location. The victim is also informed of the ability to receive assistance on a limited basis from VLC at the new location while retaining the original VLC.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

E. Standard VLC Forms

1. The VLC office uses standard client intake and screening forms.

Self-Assessment:

Yes _____ No _____

Comments:

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Inspector Assessment:

Yes _____ No _____

Comments:

2. VLC and support staff use the mandatory standardized forms and briefs available on the VLC program SharePoint site, in accordance with JAGINST 5810.3.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

3. VLC and/or support personnel maintain standard Scope of Representation forms for all victim clients, whether the client is a restricted or unrestricted reporter.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

4. After representation is complete, clients are encouraged to participate in the Victim Satisfaction Survey. VLC ensure the client is aware that the survey is voluntary and anonymous.

Self-Assessment:

Yes _____ No _____

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Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

F. Multiple VLC

1. In cases involving multiple victims where a supervisory attorney represented a conflicted client, the supervising attorney sought a senior VLC, usually another OIC, to be the supervising attorney of subordinate VLC in case junior VLC needed assistance during representation of their conflicted client.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

IV. Communication with Third Parties

A. Generally

1. VLC conduct outreach briefs to ensure commands, family members, reservists, victim support providers, law enforcement, retirees, and victims are aware of the VLC Program.

Self-Assessment:

Yes _____ No _____

Comments:

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Inspector Assessment:

Yes _____ No _____

Comments:

2. In unrestricted cases, a standard Notice of Representation form is forwarded to third parties to include: Naval Criminal Investigative Service (NCIS), RLSO, Defense Service Office (DSO) (if trial counsel and defense counsel are detailed), the Sexual Assault Response Coordinator (SARC), and the client's command, notifying them of VLC representation.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

B. Law Enforcement

1. VLC regularly communicate with law enforcement agencies (military or civilian) regarding pending investigations and proceedings, ensuring the client is updated on their case.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

C. Trial Counsel/Staff Judge Advocates

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1. In accordance with COMNAVLEGSVCCOMNOTE 5810.1, VLC are able to obtain case information from trial counsel or the staff judge advocate such as: statements made by their client, a copy of the charge sheet, the trial management order, etc.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

2. VLC work with Trial counsel and the court to ensure victims are able to exercise their rights to be heard and attend proceedings in accordance with Article 6b.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

D. SARCs/VAs

1. VLC maintain cooperative relationships with SARCs, Victim Advocates (VA), and other support providers through frequent interaction, communication, and attendance at Sexual Assault Case Management Groups.

Self-Assessment:

Yes _____ No _____

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Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

V. Scope of Practice

A. Child Cases

1. Capacity

a. VLC have and utilize a standard procedure (e.g., checklist) for documenting whether a child or adult with diminished capacity has considered judgment and capacity to direct his or her own representation.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

b. VLC have and follow a procedure for handling clients if it is determined they lack the requisite capacity to direct their own representation.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

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Yes _____ No _____

Comments:

2. VLC are familiar with and follow a policy for dealing with non-offending parents, other family members, legal guardians, and Article 6b representatives in the course of representing a minor.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

3. The VLC provides a resource (e.g., a guide for children testifying at court-martial) to child and diminished capacity clients to help them prepare to testify in court.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

B. Collateral misconduct

1. Definitions. VLC understand the definition of collateral misconduct to be any misconduct that could result in disciplinary action related to a sexual assault, and that they are able to assist victims in a limited capacity such as providing personal representation advice or acting as a spokesperson at non-judicial punishment.

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Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

2. VLC are aware of the process to request eligibility exceptions or to go beyond the normal scope of representation if VLC find themselves in particularly complicated cases.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

3. Referrals

a. When issues concerning collateral misconduct or civil law matters fall outside the scope of allowable representation, VLC know how and to whom referrals should be made.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

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Yes _____ No _____

Comments:

b. In cases where collateral misconduct is complex or unrelated criminal misconduct by a victim is occurring simultaneously, VLC know how to access defense assistance.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

c. Have VLC clients had issues obtaining local defense counsel assistance (e.g., for collateral misconduct)?

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

C. Article 6b Rights/Trial

1. VLC file notices of appearances in courts-martials in accordance with circuit rules.

Self-Assessment:

Yes _____ No _____

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Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

2. VLC understand scope of representation, the right to confer with government counsel, and the right to be heard at the following proceedings:

a. A public hearing concerning the continuation of confinement prior to trial of the accused.

b. A sentencing hearing relating to the offense.

c. A public proceeding of the service clemency and parole board relating to the offense.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

3. VLC have informed victims of the right to file a writ of mandamus in cases where the VLC believes the military judge improperly ruled regarding the admission of evidence under Military Rules of Evidence 412 and 513.

Self-Assessment:

Yes _____ No _____

Comments:

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Inspector Assessment:

Yes _____ No _____

Comments:

4. VLC notify victims of their rights and required deadlines post-trial when there is a guilty finding and a clemency request by the accused.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments:

5. VLC are prepared to assist clients in the case of a court-martial remand by an appellate court and to liaise with the assigned Victim Witness Assistance Coordinator (VWAC) in notifying the victim.

Self-Assessment:

Yes _____ No _____

Comments:

Inspector Assessment:

Yes _____ No _____

Comments: